

IN THE UNITED STATES COURT OF APPEALS
FOR THE FEDERAL CIRCUIT

ULTRATEC, INC.,

Appellant,

v.

CAPTIONCALL, LLC,

Appellee.

Nos. 2016-1706, -1707,
-1710, -1712

MOTION OF THE UNITED STATES TO INTERVENE

Pursuant to 28 U.S.C. § 2403(a), the United States respectfully moves to exercise its statutory right to intervene in this appeal to defend the constitutionality of an Act of Congress.

Appellant notified the Court on April 19, 2016 that “these consolidated appeals . . . question the constitutionality of an Act of Congress.” *See* Fed. R. App. P. 44(a). On April 22, 2016, the Court certified the fact of appellant’s constitutional challenge to the Attorney General. *See* 28 U.S.C. § 2403(a) (“In any action . . . in a court of the United States to which the United States . . . is not a party, wherein the constitutionality of any Act of Congress affecting the public interest is drawn into question, the court shall certify such fact to the Attorney General, and shall permit the United States to intervene . . . for argument on the question of constitutionality.”).

The United States hereby moves to exercise its statutory right to intervene under 28 U.S.C. § 2403(a) to defend the constitutionality of the Act or Acts of Congress that appellant challenges.¹

Respectfully submitted,

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¹ Although the Under Secretary of Commerce for Intellectual Property and Director of the United States Patent and Trademark Office (“Director”) separately intends to exercise her right to intervene under 35 U.S.C. § 143, the United States and the Director do not anticipate filing separate briefs. The United States and the Director intervene under their respective statutory authorities only to make clear that the government as intervenor may address any question raised in these appeals.

CERTIFICATE OF SERVICE

I hereby certify that on May 19, 2016, I electronically filed the foregoing with the Clerk of the Court by using the appellate CM/ECF system.

I certify that the participants in the case are registered CM/ECF users and that service will be accomplished by the appellate CM/ECF system.

s/ Sarah W. Carroll

SARAH W. CARROLL